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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/879,870	06/13/2001	William M. Appleman	82,282	4961

7590 01/28/2003
Office of Counsel Code 004
Naval Surface Warfare Center
Carderock Division Headquarters
9500 MacArthur Boulevard
West Bethesda, MD 20817-5700

EXAMINER

MENON, KRISHNAN S

ART UNIT	PAPER NUMBER
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1723

DATE MAILED: 01/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/879,870

Applicant(s)

APPLEMAN ET AL.

Examiner

Krishnan S Menon

Art Unit

1723

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 December 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
(a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☒ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-7.

Claim(s) withdrawn from consideration: 8.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: Response to arguments is attached

Continuation of 2. NOTE: Claim 1 as amended requires new consideration because the contaminated fluid is now being conducted "externally of ~~the~~ along" "the filter processing membrane elements"; and the "contaminated-laden fluid is conducted for filtration by the processing membrane elements from which the filtered fluid is laterally withdrawn". It is also unclear how the filtered fluid would be laterally withdrawn into the module, when the contaminated fluid is conducted externally of the processing membrane elements. The newly added claim 9 was added in lieu of a restricted claim 8. Claim 9 also requires further consideration and search because of the elements such as "means for positioning ... elements ... laterally spaced ... while extending between opposite axial ends.." and "...conducting contaminate-laden fluid therethrough the module housing to initiate axial flow ... means for withdrawing the cleansed portion after lateral passage.. without mixing while contaminate laden fluid is undergoing axial flow.." .

DETAILED ACTION

Response to Arguments

Applicant's arguments filed on 12/19/02 have been fully considered but they are not persuasive.

Applicant argues that the Funatsu (451) patent was incorrectly described as having a drain for discharge of clean fluids (6- fig 1), and actually, the port 6 is an inlet for feeding cells into the module. The examiner agrees that the said port is an inlet for feeding the cells into the module. However, Funatsu teaches a hollow fiber membrane module in fig 1, and when a contaminated fluid is fed through the hollow fibers, the cleansed fluid permeated from the hollow fiber membrane could come out through port (6). Applicant argues that there is no lateral withdrawal of filtered fluid in Garcera (440) reference. On the contrary, fluid fed through the membranes (1) would permeate through the walls of membrane (1) of Garcera, and could be withdrawn laterally (see fig 1). Applicant argues that the Okumura reference does not overcome the 'aforementioned' inadequacies of Funatsu and Garcera. The Okumura reference was used in combination with Funatsu and Garcera to show use of hollow fibers in filtering oily bilge water (Okumura: col 8 lines 59-68), and in combination with Garcera to show that epoxy could be used as a sealant for the membrane elements (Okumura: col 5 lines 14-18).

See 37 CFR 1.193(a)(2) which provides for the inclusion of the proposed rejection(s) detailed below in the Examiner's Answer if applicant elects to file an appeal to the Board of Patent Appeals and Interferences in this proceeding. To be complete, such rejection(s) must be addressed in any brief on appeal.

Upon appeal and entry of the amendment:

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Claims 1-7 would be rejected for the reasons set forth in *Claim Rejections - 35 USC § 102*, items 1 and 2; and *Claim Rejections - 35 USC § 103*, items 1 and 2 of the final Office Action mailed 12/02/02.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krishnan S Menon whose telephone number is 703-305-5999. The examiner can normally be reached on 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L Walker can be reached on 703-308-0457. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Krishnan S. Menon
Patent Examiner
January 14, 2003


W. L. WALKER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700